

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Niniane Wang
SERIAL NO.: 10/814,056
FILING DATE: March 31, 2004
TITLE: Systems and Methods for Refreshing a Content Display
EXAMINER: Chelcie L. Daye
GROUP ART UNIT: 2161
ATTORNEY DOCKET NO. 24207-10082

MAIL STOP PETITION
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

Declaration of Brenda Simon in support of Petition to Revive Application No. 10/814,056

I, Brenda Simon, hereby declare the following:

1. I am an attorney employed at Fenwick & West LLP ("Fenwick"). Google Inc. ("Google") is one of the clients I represent in patent prosecution.
2. Upon information and belief, Google instructed its prior counsel to transfer a large portfolio of over 300 pending patent applications to Fenwick in early 2005. The files were transferred to Fenwick in approximately February 2005. The transferred patent applications included application nos. 10/814,056, 10/814,075, and 10/810,053. The patent applications are all assigned to Google.
3. At Google's instruction, Fenwick prepared and filed a Power of Attorney granting Fenwick authority to prosecute application no. 10/814,056 on April 19, 2005. Upon information and belief, the Patent Office approved the Power of Attorney soon thereafter. As such, attorneys at Fenwick had and continue to have the right or

authority to notify the Patent Office of the foreign filings to avoid abandonment of this application.

4. Upon information and belief, the files for the patent applications were provided to Fenwick's Docketing Department as part of the standard inbound file processing process. The Docketing Department reviewed the files and created entries in the Fenwick docketing system for each of the patent applications.
5. Upon information and belief, Google instructed Fenwick to file one of the transferred applications, no. 10/814,075, under a multinational treaty requiring publication of applications 18 months after filing in late March 2005. Fenwick filed the application on March 30, 2005.
6. Application nos. 10/814,056 and 10/814,075 describe each other as "related" and incorporate each other by reference. However, the applications do not have a formal priority relationship.
7. Upon information and belief, Fenwick's Docketing Department docketed a rescission of previous non-publication request and notice of foreign filing in application no. 10/814,075. The rescission and notification were duly filed in this application on April 20, 2005.
8. Upon information and belief, during the early-to-mid 2005 time period in question, Fenwick's Docketing Department did not as a matter of course docket rescissions of non-publication requests for applications that lacked a common priority relationship, but were only listed as "related" to applications filed under a multinational treaty that requires publication. As a result, a "rescind previous non-publication request" entry was not docketed for application no. 10/814,056 when its related application was filed under the multinational treaty. Attached hereto as Exhibit A is a copy of the docketing report for application no. 10/814,056 for the year 2005 showing that no such docket entry had been made.

9. Upon information and belief, the failure to docket the rescission of the non-publication request in application no. 10/814,056 went unnoticed at the time due, at least in part, to the size and complexity of the overall portfolio transferred to Fenwick. The portfolio contained over 300 patent applications, and many of the patent applications contained numerous overlapping cross-references to other applications. As a result, Fenwick unintentionally failed to file a timely rescission of a previous non-publication request in application no. 10/814,056.
10. In late 2006 and early 2007, I prosecuted application no. 10/814,053. I received a Notice of Allowance in this application on approximately April 13, 2007. As part of my standard post-allowance diligence, I investigated the publication status of application no. 10/810,053 and its related applications.
11. On June 5, 2007, I first became aware of the potential abandonment of application no. 10/814,056 under 37 CFR 1.213(c).
12. After becoming aware of the potential abandonment of application no. 10/814,056, I conducted additional legal research and consulted with other Fenwick attorneys to ascertain the facts and requirements with respect to the potential abandonment of the application, and to identify the procedure for reviving the application. The research was complex because multiple additional applications were involved, and numerous consultations with Fenwick attorneys and Patent Office personnel were required.
13. On July 7, 2007, I was hospitalized and required emergency surgery. I did not return to the office until July 23, 2007.
14. Upon returning to work, I acted with due haste and filed the rescission of the non-publication request, and the petition to revive, for application 10/814,056 on July 30, 2007.
15. For the reasons described above, the delay in discovering the abandoned status of the application occurred despite the exercise of due care and diligence on the part of the applicant.

16. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Date: October 16, 2007 By: Brenda M. K.

Exhibit A



[New Related Matter](#) | [New Unrelated Matter](#) | [Return to Matter List](#) | [MergeDocs](#) | [Notes](#) | [Country Law](#) | [TM Map Search](#)

Matter

Special Instructions

Title:	Systems And Methods For Refreshing A Content Display	File #:	24207-10082/US
Type:	Utility - NPREG	Country:	United States of Americ
Client:	Google Inc.	Client File #:	GP-175-15-US
FIP ID:	23821	Publication Date:	
Status:	Pending / Active	Matter Entity Size:	Large
Date Filed:	Mar 31, 2004	Issue Date:	
Serial #:	10/814,056	Patent #:	
Other Party:	No	Scan Docs:	
Special Instructions (See Handbook):		Technology:	

Created by: JoAnne Delfino, Apr 5, 2005 Hosted By: Fenwick & West LLP

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Delete

Activity	Description/Comments	Status	Date 1	Date 2	Quick Links	Edit
Matter Management		Open				Edit --
Amendment and Response to Final Office Action	Amendment and Response to Final Office Action	Open: Docket Items	Final Office Action Response Due - 2 month : 11/28/2007			Edit --
Decision on Petition Dismissed		Open: Docket Items	Request For Reconsideration Due : 10/31/2007	Date Mailed : 08/31/2007		Edit --
New Rules Miscellaneous Tasks	New Rules Miscellaneous Tasks	Open: Docket Items	Consider whether to file RCE for FOA : 10/17/2007			Edit --
Final Office Action Received	Final Office Action Received	Completed	Date Mailed : 09/28/2007	Date Received : 10/01/2007		Edit --
Notice of New or Revised Projected Publication Date Rcvd		Completed	Date Received : 09/17/2007	Projected Publication Date : 12/06/2007		Edit --
Expect Decision On Petition	Petition to Revive filed along with Rescission	Completed	Date Done : 08/31/2007			Edit --
Appeal Brief	Appeal Brief; Prosecution Reopen per Pre-Brief Appeal Conference Decision	Completed	Date Done : 08/07/2007	Postcard Received : 08/07/2007		Edit --
Notice of						

Panel Decision from Pre-Appeal Brief Review	Reopen Prosecution-Rejection is withdrawn and a new Office action will be mailed.	Completed	Date Mailed : 08/07/2007	Date Done : 08/07/2007		Edit	--
Petition To Revive or Withdraw Holding of Abandonment	Petition To Revive An Abandoned Application	Completed	Date Filed : 07/30/2007			Edit	--
Amendment and Response to Final Office Action	Amendment AF filed 7/19/07; waiting for Advisory. CPK: PAIR indicates that pre-appeal decided to issue a new action	Completed	Date Done : 07/19/2007			Edit	--
Notice of Appeal		Completed	Date Done : 07/19/2007	Date Mailed : 07/19/2007		Edit	--
Pre-Appeal Brief Request for Review		Completed	Date Filed : 07/19/2007			Edit	--
Decision on Petition Received	Petition to Withdraw from Record is Not Approved	Completed	Date Mailed : 05/17/2007	Date Received : 05/21/2007		Edit	--
Request Status from the PTO		Completed	Date Done : 05/02/2007			Edit	--
Notice of Acceptance of Power of Attorney		Completed	Date mailed : 04/23/2007	Date received : 04/26/2007		Edit	--
Final Office Action Received	Final Office Action Received	Completed	Date Mailed : 04/19/2007	Date Received : 05/02/2007		Edit	--
Office Action Response		Completed	Date Done : 02/05/2007			Edit	--
Office Action Received	Non Final Office Action Received	Completed	Date Mailed : 10/05/2006	Date Received : 10/10/2006		Edit	--
Review Inbound File Transfer Checklist for Completion	Original Due Date 7/5/05	Completed	Date Done : 09/13/2005			Edit	--
Send IDS Letter	Original Due Date 5/5/05	Completed	Date Done : 06/03/2005			Edit	--
Expect Notice of Recordation		Completed	Date Done : 05/02/2005			Edit	--
Expect Postcard		Completed	Date Done : 04/05/2005			Edit	--
Expect Notice of Missing Parts		Completed	Date Done : 04/05/2005			Edit	--
IDS Due		Completed	Date Done : 04/05/2005			Edit	--
Reminder: Absolute Deadline Next Month to		Completed	Date Done : 04/05/2005			Edit	--

<u>Claim Priority</u>							
<input type="checkbox"/>	<u>Absolute Deadline to Claim Priority</u>	Completed	Date Done : 04/05/2005			Edit	--
<input type="checkbox"/>	<u>Expect Filing Receipt</u>	Completed	Date Done : 04/05/2005			Edit	--
<input type="checkbox"/>	<u>Send Foreign Filing Letter</u>	Completed	Date Done : 04/05/2005			Edit	--
<input type="checkbox"/>	<u>Send Reminder Copy of Foreign Filing Letter</u>	Completed	Date Done : 04/05/2005			Edit	--
<input type="checkbox"/>	<u>Send Foreign Filing Instruction Confirmation Letter</u>	Completed	Date Done : 04/05/2005			Edit	--
<input type="checkbox"/>	<u>Convention Foreign Filing Due</u>	Completed	Date Done : 04/05/2005			Edit	--
<input type="checkbox"/>	<u>Original Recorded Assignment Received</u>	Received Original Recorded Assignment from:	Completed	Recordation Date : 09/29/2004	Date Received		Edit --
<input type="checkbox"/>	<u>Non- Publication Request Filed</u>	Completed	Date Done : 03/31/2004			Edit	--
<input type="checkbox"/>	<u>Application Filed</u>	Completed	Postcard Received : 03/31/2004	Date Filed : 03/31/2004		Edit	--
<input type="checkbox"/>	<u>Formal Drawings Filed</u>	Completed	Date Filed : 03/31/2004			Edit	--

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